IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 4TH JULY 2007 / 13TH ASHADHA 1929

WP(C).No. 28050 of 2005(L)

AGAINST THE ORDER IN EP 21 2002 IN OS.358/1997 of PRL.SUB COURT,TRIVANDRUM
.....

PETITIONER:

L. SARASAMMA, D/O. LAKSHMIKUTTY,
AGED 50, `KEDARAM', MANIKANTESWARA P.O.,
TRIVANDRUM.

BY ADV. SRI.SABU S.KALLARAMOOLA

RESPONDENT:

SARAMMA GEORGE, D/O. ACHAMMA VARGHESE,
K.P.7/416, SHAJI BHAVAN, KUDAPPANAKUNNU,
THIRUVAANTHAPURAM, REP. BY THE POWER OF
ATTORNEY HOLDER SHAJI GEORGE, S/O. ISSAC GEORGE,
K.P.7/416, SHAJI BHAVAN,KUDAPPANAKUNNU,
THIRUVANANTHAPURAM.

BY ADV. SRI.M.BALAGOVINDAN
SRI.M.R.SASITH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04/07/2007, ALONG WITH WPC 20510/07, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N. KRISHNAN, J.

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W.P.C. NO. 28050 OF 2005

and

W.P.C. NO. 20510 OF 2007

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Dated this the 4th day of July, 2007.

J U D G M E N T

These writ petitions are preferred to quash and set aside the sale proclamation of six cents of immovable property in E.P.21/02 and the other writ petition is filed to set aside the order of delivery passed in the case.

2. Heard counsel for both sides. The sale has been done long back and the sale certificate has been issued and the matter is pending for delivery of the property. It is at this stage the judgment debtor wants to wipe off of the liability to save her property. The decree holder in all fairness would submit that if the entire amount including the amount that is payable under the provisions of the CPC is paid she is not keen on getting the property and she will transfer the property provided the judgment debtor meets the expenditure for that also. Since, the approach of the decree holder seems to be reasonable and as the judgment debtor wants to save his property I am inclined to dispose of the writ petitions as follows:

The judgment debtor, viz. the writ petitioner is directed to pay the entire amount due under the decree, plus the expenses incurred for the sale plus the stamp value and the additional amount which the auction purchaser is entitled to under the provisions of the CPC to the decree holder within a period of one month from today and on satisfaction of the decree holder, having received the entire amount, the decree holder at the expense of the judgment debtor shall re-transfer the property in her favour. In order to enable the parties to have a settlement of the matter, the delivery is deferred for a period of one month from today and in case there is non-compliance by the judgment debtor, then the Court is directed to effect delivery of the property on 6.8.07.

The writ petitions are disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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